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Session of 1993

SENATE BILL No. 284

By Committee on Federal and State Affairs

2-10

8 AN ACT concerning employment; prohibiting certain acts by em-
9 ployers and providing a remedy for violations.

10
11 *Be it enacted by the Legislature of the State of Kansas:*

12 Section 1. (a) As used in this section, "lawful consumable prod-
13 ucts" means products the use or enjoyment of which is lawful and
14 which are consumed during use or enjoyment, ~~including~~ food, al-
15 coholic or nonalcoholic beverages and tobacco, ~~and are~~ *products*

16 (b) No employer shall:

17 (1) Discharge or refuse to hire any individual, or otherwise dis-
18 advantage any individual with respect to compensation, terms, con-
19 ditions or privileges of employment, because the individual uses
20 lawful consumable products off the premises of the employer during
21 nonworking hours; or

22 (2) require as a condition of employment that any employee or
23 applicant for employment abstain from using lawful consumable prod-
24 ucts off the premises of the employer during nonworking hours.

25 (c) It is not a practice to disadvantage any individual pursuant
26 to this section for an employer to offer, impose or have in effect a
27 health or life insurance policy that makes distinctions between em-
28 ployees for the type of coverage or the cost of coverage based upon
29 the employees use of lawful consumable products.

30 (d) The provisions of this section shall not be deemed to protect
31 any use of a lawful consumable product which materially:

32 (1) Threatens an employer's legitimate conflict of interest policy
33 reasonably designed to protect the employer's trade secrets, prop-
34 rietary information or other proprietary interests; or

35 (2) relates to a bona fide occupational requirement and is rea-
36 sonably and rationally related to the employment activities and re-
37 sponsibilities of a particular employee or a particular group of
38 employees rather than to all employees of the employer.

39 (e) Violation of this section shall render the employer liable to
40 the aggrieved individual for the payment of a civil penalty in an
41 amount not to exceed \$2,500, as fixed by the secretary of human
42 resources. Such penalty shall be imposed only after notice and op-
43 portunity for hearing in accordance with the provisions of the Kansas

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1 administrative procedure act, to the extent applicable. Any order of
2 the secretary of human resources imposing such penalty shall be
3 subject to review in accordance with the act for judicial review and
4 civil enforcement of agency actions.

5 (f) Nothing in this section shall be construed to prohibit an em-
6 ployer from making available to employees who use lawful consum-
7 able products, programs, free of charge or at reduced rates, which
8 encourage the reduction or cessation of the use of lawful consumable
9 products.

10 (g) The provisions of this section shall not be construed to pro-
11 hibit unified school district policies that forbid use of legal consum-
12 able products by district employees at official school district events
13 or at any time when the employee is performing duties as an
14 employee.

15 Sec. 2. This act shall take effect and be in force from and after
16 its publication in the statute book.

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